

Serial No. 10/808,618
Response to Office Action 04/07/2006

Docket No. XW-672 (NAN.P0672)

REMARKS:

NON-COMPLIANT AMENDMENT

Applicants hereby reply to the Notice of Non-Compliant Amendment for the Preliminary Amendment filed on 12 April 2004.

It appears that the Preliminary Amendment was intended to correct typographical errors to the numbering of the claims. In the original specification, claim numbers 42-45 were repeated within the claim set.

Applicants hereby provide a Substitute Preliminary Amendment which retains a substantial number of the original claims as filed, replacing those four claims which duplicated the claim numbers. Claims 13 and 14 have also been canceled, which were duplicative of claims 10 and 11.

The amendment has not changed the scope of the claims. No additional claims fees are necessary because the original filing receipt reflects payment for 98 claims and the Substitute Preliminary Amendment has 96 claims. There has been no change in the number of independent claims.

ELECTION OF SPECIES

In response to the requirement for the election of species of one of the third distinct atoms claimed in claim 9, Applicant hereby elects the species Nitrogen: claims 1-19, 26-30, and 37-52, as stated in the Office Action. It should be noted that the claim numbers referred to in the Office Action were those renumbered by the non-compliant preliminary amendment. The present substitute preliminary amendment has reinstated the original numbering of the non-canceled claims. The Nitrogen Species claims therefore include at least original claims 1-12, 13-19, 26-30, 37-45 and 48, and new claims 95-98. Applicants respectfully submit at least original claims 31-36, depending from original claim 10, should also be part of the elected group.

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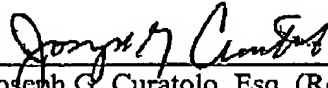
ELECTION OF COMPOSITIONAL SPECIES

In response to the requirement for an additional election from the twenty-two *compositional species* listed in the Office Action, Applicants provisionally elect the compositional species listed in the Office Action, as:

9) Nanoparticles disposed within a polymeric carrier: claims 68-71 and 73-75. It should be noted that the claim numbers referred to in the Office Action were those renumbered by the non-compliant preliminary amendment. The present substitute preliminary amendment has reinstated the original numbering of the non-canceled claims. Compositional species group 9 therefore includes at least original claims 64-67 and 69-71.

Should the Examiner have any questions about the above amendments or remarks, the undersigned attorney would welcome a telephone call.

Respectfully submitted,



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5-8-2006

Date